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3 **DECISION AND ORDER**
4 **OF THE**
5 **BOARD OF PSYCHOLOGY**

6
7 **DEPARTMENT OF CONSUMER AFFAIRS**

8
9 The attached Stipulated Settlement and Disciplinary Order in case number W267 is
10 hereby adopted as the Decision and Order of the Board of Psychology, Department of Consumer
11 Affairs. An effective date of June 11th, 2005 has been assigned to this
12 Decision and Order.

13
14 Made this 12th day of May, 2005.

15
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17 _____
18 Jacqueline Horn, Ph.D.
19 President, Board of Psychology
20 Department of Consumer Affairs
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25

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ALLAN LEWIS ZUCKERMAN, PH.D.
2100 Sawtelle Boulevard, #205
Los Angeles, CA 90025
Tustin, CA 92780-3397

Psychologist License No. PSY 18215

Respondent.

Case No. W266

OAH No. L2004010654

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Thomas S. O'Connor (Complainant) is the Executive Officer of the Board of Psychology. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Cindy M. Lopez, Deputy Attorney General.

2. Allan Lewis Zuckerman, Ph.D. (Respondent) is represented in this proceeding by attorney Michael Goldfeder, whose address is 2100 Sawtell Blvd., Suite 205, West Los Angeles, California 90025.

3. On or about April 23, 2002, the Board of Psychology issued Psychologist License No. PSY 18215 to Allan Lewis Zuckerman, Ph.D.. The License was in full force and

1 effect at all times relevant to the charges brought in Accusation No. W266 and will expire on
2 August 31, 2005, unless renewed.

3 JURISDICTION

4 4. Accusation No. W266 was filed before the Board of Psychology (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent in November of
7 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
8 Accusation No. W266 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. W266. Respondent also has carefully
12 read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of
13 License and Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
17 the right to present evidence and to testify on his own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 CULPABILITY

24 8. Respondent understands that the charges and allegations in Accusation No.
25 W266, if proven at a hearing, constitute cause for imposing discipline upon his Psychologist
26 License.

27 9. For the purpose of resolving the Accusation without the expense and
28 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could

1 establish a factual basis for the charges in the Accusation and that those charges constitute cause
2 for discipline. Respondent hereby gives up his right to contest that cause for discipline exists
3 based on those charges.

4 10. Respondent understands that by signing this stipulation he enables the
5 Board to issue an order accepting the surrender of his Psychologist License without further
6 process.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Board of Psychology.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
10 Psychology may communicate directly with the Board regarding this stipulation and settlement,
11 without notice to or participation by Respondent or his counsel. By signing the stipulation,
12 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind
13 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
14 this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall
15 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
16 between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated
19 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
20 and effect as the originals.

21 13. In consideration of the foregoing admissions and stipulations, the parties
22 agree that the (Board) may, without further notice or formal proceeding, issue and enter the
23 following Order:

24 ORDER

25 IT IS HEREBY ORDERED that Psychologist License No. PSY 18215, issued to
26 Respondent Allan Lewis Zuckerman, Ph.D. is surrendered and accepted by the Board of
27 Psychology.

28 14. The surrender of Respondent's Psychologist License and the acceptance of

1 the surrendered license by the Board shall constitute the imposition of discipline against
2 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
3 Respondent's license history with the Board.

4 15. Respondent shall lose all rights and privileges as a Psychologist in
5 California as of the effective date of the Board's Decision and Order.

6 16. Respondent shall cause to be delivered to the Board both his License and
7 pocket license certificate on or before the effective date of the Decision and Order.

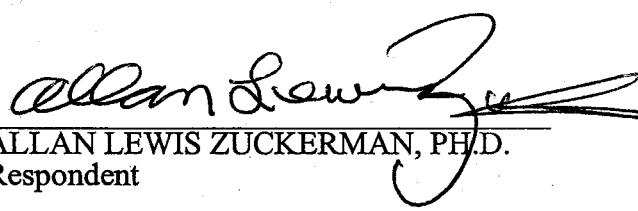
8 17. Respondent fully understands and agrees that if he ever files an application
9 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
10 petition for reinstatement. Respondent must comply with all the laws, regulations and
11 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
12 of the charges and allegations contained in Accusation No. W266 shall be deemed to be true,
13 correct, and admitted by Respondent when the Board determines whether to grant or deny the
14 petition. Respondent will be allowed to petition for reinstatement one year from the
15 effective date of this decision.

16 18. Respondent shall pay the Board its costs of investigation and enforcement
17 in the amount of \$2,000.00 prior to issuance of a new or reinstated license.

18
19 ACCEPTANCE


20 I have carefully read the above Stipulated Surrender of License and Order and
21 have fully discussed it with my attorney, Michael Goldfeder. I understand the stipulation and the
22 effect it will have on my Psychologist License. I enter into this Stipulated Surrender of License
23 and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and
24 Order of the Board of Psychology.

25 DATED: 11/9/05

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27 
28 ALLAN LEWIS ZUCKERMAN, PH.D.
Respondent

1 I have read and fully discussed with Respondent Allan Lewis Zuckerman, Ph.D. the terms
2 and conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: 1-9-2005.

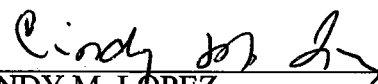
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7 MICHAEL GOLDFEDER
8 Attorney for Respondent

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11 ENDORSEMENT

12 The foregoing Stipulated Surrender of License and Order is hereby respectfully
13 submitted for consideration by the Board of Psychology of the Department of Consumer Affairs.

14
15 DATED: 2.15.05.

16
17 BILL LOCKYER, Attorney General
18 of the State of California

19 
20 CINDY M. LOPEZ
21 Deputy Attorney General
22 Attorneys for Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 NANCY ANN STONER, State Bar No. 72839
Deputy Attorney General, for
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7 Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF PSYCHOLOGY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. W266

12 ALLAN LEWIS ZUCKERMAN, PH.D.
13 2100 Sawtelle Boulevard, #205
Los Angeles, CA 90025

A C C U S A T I O N

14 Psychologist License No. PSY 18215

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Thomas S. O'Connor (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Board of Psychology, Department of Consumer
21 Affairs.

22 2. On or about April 23, 2002, the Board of Psychology issued Psychologist
23 License No. PSY 18215 to Allan Lewis Zuckerman, Ph.D. (Respondent). The Psychologist
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on August 31, 2005, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Psychology (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2960 of the Code states, in pertinent part:

3 "The board may refuse to issue any registration or license, or may issue a
4 registration or license with terms and conditions, or may suspend or revoke the registration or
5 license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of
6 unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

7 ". . . .

8 "(i) Violating any rule of professional conduct promulgated by the board and set
9 forth in regulations duly adopted under this chapter.

10 "(j) Being grossly negligent in the practice of his or her profession.

11 "(k) Violating any of the provisions of this chapter or regulations duly adopted
12 thereunder.

13 ". . . .

14 "(n) The commission of any dishonest, corrupt, or fraudulent act.

15 (o) Any act of sexual abuse, or sexual relations with a patient or former patient
16 within two years following termination of therapy, or sexual misconduct that is substantially
17 related to the qualifications, functions or duties of a psychologist or psychological assistant or
18 registered psychologist.

19 "(p) Functioning outside of his or her particular field or fields of competence as
20 established by his or her education, training, and experience.

21 "(r) Repeated acts of negligence."

22 5. Section 2960.1 of the Code states:

23 "Notwithstanding Section 2960, any proposed decision or decision issued under
24 this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section
25 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of
26 fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 728,
27 when that act is with a patient, or with a former patient within two years following termination of
28 therapy, shall contain an order of revocation. The revocation shall not be stayed by the

1 administrative law judge."

2 6. Section 726 of the Code states:

3 "The commission of any act of sexual abuse, misconduct, or relations with a
4 patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary
5 action for any person licensed under this division, under any initiative act referred to in this
6 division and under Chapter 17 (commencing with Section 9000) of Division 3.

7 "This section shall not apply to sexual contact between a physician and surgeon
8 and his or her spouse or person in an equivalent domestic relationship when that physician and
9 surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse
10 or person in an equivalent domestic relationship."

11 Title 16, California Code of Regulations:

12 7. Section 1396 of the California Code of Regulations (Regulations) states:

13 "A psychologist shall not function outside his or her particular field or fields of
14 competence as established by his or her education, training and experience."

15 8. Section 1396.1 of the Regulations states:

16 "It is recognized that a psychologist's effectiveness depends upon his or her ability
17 to maintain sound interpersonal relations, and that temporary or more enduring problems in a
18 psychologist's own personality may interfere with this ability and distort his or her appraisals of
19 others. A psychologist shall not knowingly undertake any activity in which temporary or more
20 enduring personal problems in the psychologist's personality integration may result in inferior
21 professional services or harm to a patient or client. If a psychologist is already engaged in such
22 activity when becoming aware of such personal problems, he or she shall seek competent
23 professional assistance to determine whether services to the patient or client should be continued
24 or terminated."

25 9. Section 1396.2 of the Regulations states:

26 "A psychologist shall not misrepresent nor permit the misrepresentation of his or
27 her professional qualifications, affiliations, or purposes, or those of the institutions,
28 organizations, products and/or services with which he or she is associated."

1 COST RECOVERY

2 10. Section 125.3 of the Code states, in pertinent part, that the Board may
3 request the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 11. Section 2964.6 of the Code states:

7 An administrative disciplinary decision that imposes terms of probation may
8 include, among other things, a requirement that the licensee who is being placed on probation
9 pay the monetary costs associated with monitoring the probation.

10 FIRST CAUSE FOR DISCIPLINE

11 (Sexual Misconduct)

12 12. Respondent is subject to disciplinary action under section 2960,
13 subdivision (o), 2960.1, and section 726 of the Code in that Respondent committed acts of sexual
14 abuse and misconduct with two patients at a board and care facility. The circumstances are as
15 follows:

16 13. In and around 2002, Respondent had been providing group therapy every
17 two weeks, on Thursdays, at Lydia's Guest Home, a licensed Adult Residential Facility for
18 mentally disabled adults.

19 14. On or about August 29, 2002, one of the patients at the facility, Client #1,¹
20 created a disturbance which resulted in the police and paramedics visit to the facility. After the
21 police left, Respondent told Client # 1 to step into the T.V. room so he could examine her cuts or
22 bruises before she was transported to a psychiatric hospital. He told Client #1 to raise her blouse,
23 which she did. Respondent pointed his finger towards her exposed breasts, moved his finger
24 around in a circular manner, and touched her breasts. He then told Client #1 to pull down her
25

26 1. The patients mentioned in this pleading will be designated as Client # 1 and Client # 2
27 in order to protect their privacy and confidentiality, and to be consistent with the designations
28 used in the proceedings against Respondent before the Department of Social Services.
Respondent will be provided with identifying information if discovery is requested.

1 pants and spread her legs, which she did. Respondent moved his finger across Client #1's
2 exposed genital area and touched her. Two employees of the facility were walking past the T.V.
3 room; they saw and heard what Respondent did. The employees reported the incident to the
4 facility's owner, Ms. R., who also reported the matter to the Department of Social Services.

5 15. Within a few days of the incident with Client #1, Ms. R. was told by a
6 second resident, Client #2, that Respondent also had examined her. Respondent told Client #2 to
7 go into the T.V. room so he could examine her for needle marks. Respondent told Client #2 to
8 lift up her blouse and bra, which she did. Respondent pointed his finger towards her exposed
9 breasts, and moved his finger back and forth laterally in a scanning motion a few inches from her
10 breasts. Respondent then told Client #2 to pull down her pants, which she did. Respondent was
11 kneeling in front of her and made the same scanning motion with his finger a few inches from
12 her exposed genital area. Respondent said he did not find anything, told Client #2 to pull up her
13 pants, and he left the room.

14 16. After learning of the incident on August 29, 2002, the facility owner, Ms.
15 R., called Respondent and asked him what he had done with Client #1. Respondent denied
16 touching Client #1 and claimed he was only checking her for bruises. Respondent was silent
17 when Ms. R. informed him there had been witnesses. Thereafter, Respondent attempted to call
18 back Ms. R. several times and left voice messages on her office line, cell phone, and home
19 number. Among other statements, Respondent apologized for his behavior, felt "really bad about
20 yesterday," asked for forgiveness, said he was under stress and would like to correct this, and said
21 he is trying to get help so this never happens again.

22 17. On September 25, 2002, the Department of Social Services issued and
23 served Respondent with an "Order to Individual for Immediate Exclusion from All Facilities"
24 (Exclusion Order) as a result of an investigation which substantiated a complaint of "Personal
25 Rights Violation and Dependent Adult Abuse." The Department ordered Respondent to
26 immediately "remove yourself from any contact with clients and not be physically present in any
27 facility."

28 18. In a letter dated October 22, 2002, the Medical Director of the Los

1 Angeles County Department of Mental Health's [LADMH] Bureau of Standards, Practices and
2 Conduct, sent a letter informing Respondent that due to the exclusionary order sent to
3 Respondent on September 25, 2002, from the Department of Social Services, he has been
4 prohibited from contact with clients in any State licensed residential facility. Accordingly, the
5 LADMH was suspending the Medi-Cal provider number that had just been issued to Respondent
6 in September 2002. Respondent was also required to "promptly submit a list of Medi-Cal
7 beneficiaries in treatment with you."

8 19. Respondent never submitted a list of beneficiaries in treatment with him,
9 never informed other facilities of the Exclusion Order or the nature of the allegations, and
10 continued to work at at least seven (7) licensed facilities until April, 2003.

11 20. The following acts and omissions in Respondent's care and treatment of
12 Client #1 and Client #2, taken singularly or collectively, constituted sexual misconduct and
13 abuse:

14 a. Respondent physically examined the breasts and genital areas of two
15 patients, and touched one of the patients;

16 b. Respondent ordered two patients to lift up their blouses and bras, and to
17 pull down their pants in order to expose intimate parts of their bodies to Respondent;

18 c. Respondent falsely indicated he was authorized to examine the patients for
19 bruises, needle marks, and other reasons;

20 d. Respondent acted outside the scope of the practice of psychology, and was
21 attempting to engage in the practice of medicine, when he requested and conducted a
22 physical examination of these patients;

23 e. Respondent had the patients expose themselves while they were standing
24 in an open room that could be viewed by others.

25 SECOND CAUSE FOR DISCIPLINE

26 (Gross Negligence)

27 21. Respondent is subject to disciplinary action under section 2960,
28 subdivision (j) of the Code in that Respondent was grossly negligent in his practice of

1 psychology. The circumstances are as follows:

2 a. The facts and allegations set forth in paragraphs 12 through 20 are
3 incorporated here;

4 b. In addition to the acts of sexual abuse and misconduct set forth above,
5 Respondent failed to read and comply with the Exclusion Order issued by the Department
6 of Social Services on September 25, 2002, and specifically referenced in the letter dated
7 October 22, 2002, from the Medical Director at LACDMH;

8 c. Respondent continued to work as a psychologist at care facilities for at
9 least six months after receiving the Exclusion Order; he failed to inform the facilities of
10 the Order or the nature of the charges;

11 d. Respondent failed to comply with the requirement set forth in the letter
12 from the Medical Director at LACDMH, and failed to submit a list of Medi-Cal
13 beneficiaries in treatment with him at the facilities where he continued to work after the
14 Exclusion Order was issued;

15 e. Respondent claimed he was concerned about the food service and
16 medication provided at Lydia's Guest Home, but he never made a report of any alleged
17 incidents to the Department of Social Services or any other reporting agency.

18 THIRD CAUSE FOR DISCIPLINE

19 (Dishonest and Corrupt Acts)

20 22. Respondent is subject to disciplinary action under section 2960,
21 subdivision (n) of the Code in that he committed dishonest and corrupt acts in the practice of
22 psychology. The facts and allegations set forth in paragraphs 12 through 21 are incorporated
23 here.

24 FOURTH CAUSE FOR DISCIPLINE

25 (Violation of the Laws and Restrictions on the Practice of Psychology)

26 23. Respondent is subject to disciplinary action under section 2960,
27 subdivisions (i), (k), and (p) of the Code, in conjunction with sections 1396, 1396.1, and 1396.2
28 of the Regulations, in that he acted outside the scope of psychology, misrepresented directly or

1 indirectly, his authority to examine the two patients, continued to practice as a psychologist at
2 various facilities after being ordered not to do so, and continued to practice when he was under
3 stress and acknowledged he needed help to control his behavior. The facts and allegations set
4 forth in paragraphs 12 through 22 are incorporated here.

5 FIFTH CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct)

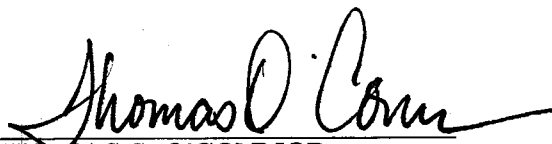
7 24. Respondent is subject to disciplinary action under section 2960 of the
8 Code in that he committed general unprofessional conduct in the practice of psychology. The
9 facts and allegations set forth in paragraphs 12 through 23 are incorporated here.

10
11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board of Psychology issue a decision:

- 14 1. Revoking or suspending Psychologist License No. PSY 18215, issued to
15 Allan Lewis Zuckerman, Ph.D.;
- 16 2. Ordering Allan Lewis Zuckerman, Ph.D. to pay the Board of Psychology
17 the reasonable costs of the investigation and enforcement of this case, and, if placed on
18 probation, the costs of probation monitoring;
- 19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: November 21, 2003

21
22 
23 THOMAS S. O'CONNOR
24 Executive Officer
25 Board of Psychology
26 Department of Consumer Affairs
27 State of California
28 Complainant